QUESTION PRESENTED

Whether petitioner, who was ordered deported for failure to report as an alien, was required to meet the ten-year residence requirement fixed by subdivision (5) of Section 244(a) of the Immigration and Nationality Act of 1952, rather than the seven-year requirement fixed by subdivision (1), in order to be eligible for suspension of deportation.

STATUTES INVOLVED

1. The Immigration and Nationality Act of 1952, 66 Stat. 163, provides in pertinent part:

> Section 241 (a) [8 U. S. C. 1251(a)].
>
> Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—
>
> * * * * *
>
> (5) has failed to comply with the provisions of section 265 unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under section 266(c) of this title, or under section 36(c) of the Alien Registration Act, 1940, * * *
>
> * * * * *
>
> (9) was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 248, or to comply with the conditions of any such status;
>
> * * * * *
>
> Section 244a [8 U. S. C. 1254a].
>
> As hereinafter prescribed in this section, the Attorney General may, in his discretion, sus-

pend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien who—

(1) applies to the Attorney General within five years after the effective date of this Act for suspension of deportation; last entered the United States more than two years prior to the date of enactment of this Act; is deportable under any law of the United States and is not a member of a class of aliens whose deportation could not have been suspended by reason of section 19(d) of the Immigration Act of 1917, as amended; and has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent or child, who is a citizen or an alien lawfully admitted for permanent residence; or

(2) last entered the United States within two years prior to or at any time after the date of enactment of this Act; is deportable under any law of the United States solely for an act committed or status existing prior to or at the time of such entry into the United States and is not within the provisions of paragraph (4) of this subsection; was possessed of all of the requisite documents at the time of such entry into the United States; has been physically present in the United States for a continuous period of not less than five years immediately

preceding his application under this paragraph, and proves that during all of such period he has been and is a person of good moral character; has not been served with a final order of deportation issued pursuant to this Act in deportation proceedings up to the time of applying to the Attorney General for suspension of deportation; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen or an alien lawfully admitted for permanent residence; or

(3) last entered the United States within two years prior to, or at any time after the date of enactment of this Act; is deportable under any law of the United States for an act committed or status acquired subsequent to such entry into the United States and is not within the provisions of paragraph (4) or (5) of this subsection; was possessed of all of the requisite documents at the time of such entry into the United States; has been physically present in the United States for a continuous period of not less than five years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character; has not been served with a final order of deportation issued pursuant to this Act in deportation proceedings up to the time of applying to the Attorney General for suspension of deportation; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely

unusual hardship to the alien or to his spouse, parent, or child, who is a citizen or an alien lawfully admitted for permanent residence; or

(4) last entered the United States within two years prior to, or at any time after the date of enactment of this Act; is deportable under paragraph (1) of section 241(a) insofar as it relates to criminals, prostitutes or other immoral persons, subversives, violators of narcotic laws and similar classes or under paragraph (2) of section 241(a), as a person who entered the United States without inspection or at a time or place other than as designated by the Attorney General, or without the proper documents and is not within the provisions of paragraph (5) of this subsection; has been physically present in the United States for a continuous period of not less than ten years after such entry and immediately preceding his application under this paragraph and proves that during all of such period he has been and is a person of good moral character; has not been served with a final order of deportation issued pursuant to this Act in deportation proceedings up to the time of applying to the Attorney General for suspension of deportation; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen or an alien lawfully admitted for permanent residence; or

(5) is deportable under paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17) or (18) of section 241(a) for an act committed or status acquired subsequent to such entry

into the United States or having last entered the United States within two years prior to, or at any time after the date of enactment of this Act, is deportable under paragraph (2) of section 241(a) as a person who has remained longer in the United States than the period for which he was admitted; has been physically present in the United States for a continuous period of not less than ten years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character; has not been served with a final order of deportation issued pursuant to this Act in deportation proceedings up to the time of applying to the Attorney General for suspension of deportation; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen or an alien lawfully admitted for permanent residence.

* * * * *

Section 265 [8 U. S. C. 1305]

Every alien required to be registered under this title, or who was required to be registered under the Alien Registration Act, 1940, as amended, who is within the United States on the first day of January following the effective date of this Act, or on the first day of January of each succeeding year shall, within thirty days following such dates, notify the Attorney General in writing of his current address and furnish such additional information as may by regulations be required by the Attorney General. Any

such alien shall likewise notify the Attorney General in writing of each change of address and new address within ten days from the date of such change. * * *

2. The pertinent provisions of Section 19 of the Act of 1917, as well as Section 241(a) of the 1952 Act in its entirety, are set forth in the Appendix, *infra*, pp. 36–47.

STATEMENT

This case arises from an action instituted by petitioner in the United States District Court for the Southern District of Florida. Petitioner's complaint sought a declaration that he was entitled to have his application for suspension of deportation considered by the Attorney General pursuant to Section 244(a)(1) of the Immigration and Nationality Act of 1952 (8 U. S. C. 1254(a)(1), *supra*, pp. 2–3).

Petitioner, a native and citizen of Greece, entered the United States on March 11, 1947, as a seaman on a certificate of admission which permitted a stay of not over 29 days. He illegally remained in the United States thereafter (R. 12–13). In 1952 he registered under the provisions of the Alien Registration Act, but thereafter he willfully and without reasonable excuse failed annually to report as required by Section 265 of the 1952 Act (8 U. S. C. 1305, *supra*, pp. 6–7) (R. 16–17, 28, 34).

In deportation proceedings commenced in 1954, petitioner was found deportable under Section 241(a)(9) (*supra*, p. 2) as a nonimmigrant who failed to comply with the conditions of such status, and under

Section 241(a)(5) (*supra*, p. 2) as an alien who failed to comply with the reporting requirements of Section 265. Petitioner's application for suspension of deportation was denied by the Special Inquiry Officer on the ground that, since petitioner was single and had no one in the United States dependent on him for support, he did not meet the hardship requirement essential to eligibility for suspension of deportation; and further that he failed to meet the ten-year residence requirement for eligibility fixed by Section 244(a)(5) for persons deportable under Section 241 (a)(5) (R. 31–34).

Before the Board of Immigration Appeals, petitioner contended that he was eligible for suspension of deportation under the provisions of Section 244(a)(1) which imposes only a seven-year residence requirement. The Board ruled that the application had to be considered under Section 244(a)(5), with its requirement of ten years residence after the deportable act (R. 6–8). The Board found petitioner ineligible for such relief "since among other things, he does not meet the physical requirements of section 244(a)(5)" (R. 8).

Petitioner's complaint in the District Court attacked the ruling that his application for suspension could not be considered under Section 244(a)(1) (R. A–3), alleging in paragraph 8 that he "does qualify under all the provisions of this section" (R. 2). The answer denied those portions of paragraph 8 "alleging the impropriety of the administrative denial of petitioner's application for suspension of deportation" (R. 9).

At the trial, according to the District Court's "Final Judgment" (R. 34), it was orally stipulated by the parties that "there was no issue of fact to be tried by the Court and that the facts as found by the Board of Immigration Appeals and the Special Inquiry Officer during the course of the administrative proceedings * * * correctly stated the true factual situation". The District Court's "Final Judgment" also recites that the parties further orally stipulated that the sole question to be decided by the court was as follows (R. 34–35):

> Does the fact that plaintiff is admittedly statutorily ineligible for suspension of deportation under section 244(a)(5) of the Immigration and Nationality Act (he, the plaintiff, not being able to meet the physical requirements of that section) preclude the plaintiff from presenting for consideration his application for suspension of deportation under section 244(a)(1) of said Act, it being admitted that the plaintiff fully meets the requirements of the latter section?

Both the District Court (R. 34–35) and the Court of Appeals (244 F. 2d 178) agreed with the Board of Immigration Appeals that petitioner's application for suspension could not be considered under Section 244(a)(1).

SUMMARY OF ARGUMENT

Petitioner was found deportable, under Section 241(a)(5) of the Immigration and Nationality Act of 1952, for failure to report as an alien in violation of Section 265 of the Act. Section 244(a)(5), making specific provision for that deportable offense, gov-

erns petitioner's application for suspension of deportation, rather than Section 244(a)(1).

A. Subdivision (5) of Section 244(a) covers those deportable offenses considered by Congress to be most serious.

1. In 1952 Congress recast completely the suspension provisions, setting up five separate categories with distinct eligibility requirements. Subdivision (1) extended for a limited time (until December 24, 1957) the privilege of suspension of deportation to those aliens who had entered the United States before June 27, 1950, were deportable under any law of the United States, and were not precluded from suspension under Section 19(d) of the Act of 1917 (as anarchists, narcotics violators, etc.); to be eligible under subdivision (1), the alien must show good moral character and continuous residence for seven years immediately preceding the date of application. Subdivisions (2), (3), and (4) deal with classes of aliens entering this country after June 27, 1950. Subdivision (5) is the only subdivision which applies without time limitation to aliens whose post-entry act makes them deportable for any of eleven specified offenses, including that of failure to report under Section 241(a)(5); to qualify for suspension under (5), the alien must establish continuous residence and good moral character for ten years from the date of the deportable act.

Manifestly, subdivision (5) covers the most serious post-entry offenders, since it not only has the stringent ten-year residence requirement but also, unlike (1), suspension granted under (5) requires affirmative approval by Congressional resolution. Consequently,

when in 1952 Congress deemed registration and reporting offenses to be sufficiently grave as to warrant explicit coverage by (5), it could not have intended that such offenses might be covered by the less strict requirements of (1).

2. The fact that subdivision (5) is the only one having no time limitation as to entry and may apply both prospectively and retrospectively lends force to the view that it was meant to govern exclusively the offenses therein enumerated. Most of the specific post-entry offenses covered by subdivision (5) had previously been considered so serious that suspension of deportation was not permitted at all under former law. Hence, most of the offenses specified in (5) are excluded from (1) by virtue of the provision in (1) that its benefits should not extend to those who were not eligible for suspension under Section 19(d) of the 1917 Act.

The particular offense here involved occupies an anomalous position among the specific offenses enumerated in (5) in that it was not one of the offenses for which suspension could not have been granted under former Section 19(d). Congress did not make it a ground for deportation until the 1952 Act when it was made so under Section 241(a)(5): And in Section 244(a), dealing with suspension, Congress included this ground with those classified as most serious. The very fact that Congress placed this offense in the same classification as the group which theretofore had not been subject to provisions for suspension at all, and which were not to be differentiated

by the time of entry, shows that Congress intended subdivision (5) to be controlling.

3. By requiring ten years' continuous residence "immediately following" the deportable act before suspension could be obtained under subdivision (5), Congress was clearly imposing the requirement that aliens deportable for the grounds there enumerated show a substantial period of reform before being eligible for suspension. To say that aliens rendered deportable for failure to report as required under Section 265 may nonetheless apply under 244(a)(1) could eliminate the probationary requirement in their case despite the fact that they were considered among the group of serious offenders and specifically included under (5) with those whose deportation could not have been suspended under former law.

B. The legislative history shows that Congress intended subdivision (5) to be controlling as to the offenses enumerated therein.

1. Petitioner's argument, that Congress intended Section 244(a)(1) to be a "savings clause" applicable to all pre-1950 entrants fails to take into consideration the history of the bills which became the Act of 1952. As introduced in the 82nd Congress, S. 2550 did embody the concept urged by petitioner, in that all the subdivisions of 244(a) except (1) were limited to persons entering the United States two years before the enactment of the statute and at any subsqeuent time. On the other hand, the House bill, H. R. 5678, had a cut-off date only as to subdivision (1) but no limitation of any kind in subdivisions (2) through (5). This difference between the two versions was

not the subject of comment and not resolved until the report (H. Rep. 2096, 82nd Cong., 2d Sess.) of the conference committee, which drafted the bill in its present form, with some sort of a time limitation as to entry in every subdivision except the part of subdivision (5) dealing with the eleven specific post-entry offenses specifically enumerated in that subdivision. The removal of any limitation as to time of entry for the offenses regarded as serious enough to be included in (5) indicates that all aliens in that category would be required to meet the eligibility requirements of (5). Inasmuch as (5) applies both to pre-1950 and post-1950 entrants, the conditions of (5) apply to deportation for a ground specified therein regardless of the date of entry.

C. The conclusion that subdivision (5) is the governing provision in this case is reinforced by the fact that the language and legislative history of Section 244(a) evidence a design to keep the five subdivisions mutually exclusive.

1. The only overlapping between (1) and (5) under the literal language of the statute is as to pre-1950 entrants deportable for failure to report or for war security offenses. This is probably due to the fact that, while these offenses were not so seriously regarded in 1940, they were considered very important in 1952. The overlapping in this limited respect probably represents a legislative oversight. It does not affect the conclusion that the whole plan of the section indicates that the subdivisions were to be mutually exclusive, and that the statute should reasonably be interpreted to give effect to that intention.

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2. The legislative purpose to keep the sections mutually exclusive is indicated by the comments of the Immigration and Naturalization Service on earlier versions containing other overlapping. In its analysis of S. 3455, pp. 244–1, 4, 6, 7–8, 9, the Service "strongly recommend[ed] that this apparent overlapping be eliminated * * *." The subsequent versions of the bill and the measure as finally adopted contained changes to meet such overlapping features pointed out by the Service.

D. The rule that a specific provision governs a more general one applies here. "General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment." *Ginsberg and Sons* v. *Popkin,* 285 U. S. 204, 208; *Fourco Glass Co.* v. *Transmirra Corp.,* 353 U. S. 222, 228–229. The offense for which petitioner was found deportable is expressly covered by Section 244(a)(5), regardless of the date of the alien's entry. It therefore is controlling as to petitioner as against the more general language of subdivision (1) relating to an offense "under any law of the United States."

In totality, the language, legislative history, and rules of construction compel the conclusion that, by specifically including reporting violators under Section 244(a)(5), Congress intended that all such violators—including those like petitioner who entered prior to June 27, 1950—must show continuous residence and good moral character for at least ten years

after the deportable offense before being eligible for suspension relief.

ARGUMENT

Before dealing with the issue decided by the courts below—*i. e.*, whether petitioner's application for suspension of deportation is governed by subdivision (1) or subdivision (5) of Section 244(a)—we feel obliged to point out again, as we did in our brief in opposition to the granting of certiorari, that this issue "would seem to be, in reality, academic" (Br. Opp. 8, n. 1) in this case.

The special inquiry officer, in denying the application, based his decision against eligibility primarily on the ground that petitioner, who is single and has no one dependent on him for support, "does not meet the requirement that his deportation result in exceptional and extremely unusual hardship to himself" and that any resulting hardship "would not be so exceptional and extremely unusual as to make his deportation unconscionable" (R. 33). The hardship requirement applies to applications under subdivision (1) as well as under subdivision (5). While the Board of Immigration Appeals did not expressly refer to this finding by the special inquiry officer, it did state that it found nothing in the case which "would cause us to make any change in the decision of the special inquiry officer" (R. 8). It would thus appear that, irrespective of which subdivision is held to govern petitioner's application for suspension, the decision cannot affect the denial of that application on a completely independent alternative ground.

In this connection, petitioner (Br. 2, 6, 7) apparently relies on an oral stipulation made in the District Court to the effect that the only question to be decided was whether the petitioner is entitled to have his application considered under subdivision (1), "it being admitted that [petitioner] fully meets the requirements of the latter section" (R. 34–35). This stipulation, if it means more than that petitioner met the residence requirement of subdivision (1), is inconsistent with the administrative record and also seems to be inconsistent with the additional stipulation "* * * that the facts as found by the Board of Immigration Appeals and the Special Inquiry Officer * * * correctly stated the true factual situation * * *" (R. 34). In any event, a stipulation would be ineffective to confer jurisdiction on a federal court by creating a justiciable controversy otherwise lacking. See *Swift & Co.* v. *Hocking Valley Ry. Co.*, 243 U. S. 281, 289; *Aetna Life Ins. Co.* v. *Haworth*, 300 U. S. 227, 240–241. Nor, in our view, should the stipulation be regarded as a waiver of the hardship requirement imposed by Congress as an indispensable condition for the granting of suspension relief to any alien.[1]

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[1] The 1952 Act radically revised the pre-existing hardship requirement for the avowed purpose of limiting suspension to those cases where deportation would be unconscionable. As put by the Senate Judiciary Committee in its report accompanying the bill which ultimately became the 1952 Act (S. Rep. No. 1137, 82d Cong., 2d Sess., p. 25):

> The term "exceptional and extremely unusual hardship" requires some explanation. The committee is aware that in almost all cases of deportation, hardship and frequently

In these circumstances, the question whether this Court has jurisdiction over this case, and if so whether it should be exercised here, is a matter which we submit to the Court for its consideration. Cf. *Barr* v. *Matteo*, 355 U. S. 171, 172, recently reaffirming this Court's general policy to "avoid rendering a decision beyond the obvious requirements of the record".

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unusual hardship is experienced by the alien or the members of his family who may be separated from the alien. The committee is aware, too, of the progressively increasing number of cases in which aliens are deliberately flouting our immigration laws by the processes of gaining admission into the United States illegally or ostensibly as nonimmigrants but with the intention of establishing themselves in a situation in which they may subsequently have access to some administrative remedy to adjust their status to that of permanent residents. This practice is grossly unfair to aliens who await their turn on the quota waiting lists and who are deprived of their quota numbers in favor of aliens who indulge in the practice. This practice is threatening our entire immigration system and the incentive for the practice must be removed. *Accordingly, under the bill, to justify the suspension of deportation the hardship must not only be unusual but must also be exceptionally and extremely unusual. The bill accordingly establishes a policy that the administrative remedy should be available only in the very limited category of cases in which the deportation of the alien would be unconscionable. Hardship or even unusual hardship to the alien or to his spouse, parent, or child is not sufficient to justify suspension of deportation.* * * * [Emphasis added.]

See also H. Rep. No. 1365, 82d Cong., 2d Sess., pp. 62–63; cf. *Hintopoulos* v. *Shaughnessy*, 353 U. S. 72, 76, n. 3; *Asikese* v. *Brownell*, 230 F. 2d 34, 36 (C. A. D. C.).

Having been found deportable for an offense—failure to report as an alien—specifically covered by subdivision (5) of Section 244 (a) of the Immigration and Nationality Act of 1952, petitioner was required to meet the 10-year residence requirement fixed by that subdivision, rather than the 7-year requirement fixed under subdivision (1), in order to be eligible for suspension of deportation

Petitioner was found deportable under Section 241 (a)(5) of the Immigration and Nationality Act of 1952 (*supra,* p. 2) for wilfully violating the reporting requirements of Section 265 of the Act (*supra,* pp. 6–7) during 1953 and January 1954.[2] Petitioner does not challenge the validity of the deportation order, but instead seeks suspension relief.

Section 244(a)(5) (*supra,* pp. 5–6) specifically prescribes the conditions of eligibility for suspension relief where an alien is deportable under Section 241(a)(5). One of these conditions is ten years' continuous residence from the date of the deportable act. Petitioner admittedly cannot meet such residence requirements. He argues, however, that he is entitled to have his eligibility determined under Section 244(a)(1), which requires seven years' residence prior to the application, since his offense constituted an act for which he was "deportable under any law of the United States" within the purview of that provision. It is undisputed that petitioner meets the 7-year residence requirement of subdivision (1).

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[2] He was also found deportable under Section 241(a)(9) (*supra*, p. 2) as a non-immigrant (here as an alien crewman) who failed to comply with the conditions of such status (R. 33–34).

The issue tendered in this case therefore is whether petitioner, despite his admitted failure to meet the more stringent requirements of eligibility fixed under subdivision (5), which specifically covers the violation for which he was found deportable, may nevertheless have his eligibility determined under subdivision (1). Our position is that the offenses specifically set forth in (5), including the offense of failure to register or report, are governed only by (5). We think that the subdivisions of Section 244(a) are structurally exclusive, but that, even if they are not, the governing provision would still be (5) relating specifically to the offense involved here, as against the more general language of (1).

A. Subdivision (5) relates to the deportable acts deemed by Congress to be the most serious

1. The concept of suspension of deportation for aliens who, while deportable, had proved themselves desirable residents, was first written into the immigration laws by the Alien Registration Act of 1940 (54 Stat. 671–672). At that time, Congress set up one general category—aliens with at least five years' residence and good moral character during the preceding five-year period whose deportation would involve economic detriment to a legally resident dependent of the alien. At the very same time, however, Congress set up certain categories to whom this type of relief should not be available at all. These were anarchists and similar classes, narcotics violators, mentally or physically deficient persons, those deportable for conviction of crimes involving moral

turpitude, aliens aiding others to enter illegally, and those convicted of carrying firearms or for subversive activities. The suspension of deportation by the Attorney General was to be final, unless disapproved by concurrent Congressional resolution.

In 1948, the class of aliens eligible for suspension was broadened to include those here on July 1, 1948, who, having seven years' continuous residence, proved good moral character during the preceding five years, even though they could not show hardship to dependents. The classes of persons ineligible for relief was left unchanged. However, express Congressional approval of the Attorney General's recommendation by enactment of a concurrent resolution was required before suspension became effective (Act of July 1, 1948, 62 Stat. 1206).[3]

In the 1952 Act, Congress reshaped completely the law dealing with suspension of deportation by setting up five separate and distinct categories under which deportable aliens might have their deportation suspended. The class applicable to each alien was made dependent on the date of entry and the nature of the deportable act. Each of these categories was set up so as to contain distinct eligibility requirements. The arrangement of the five subdivisions of Section 244(a) is as follows:

Subdivision (1) continued for a limited time (until December 24, 1957) the privilege of suspension of deportation for aliens who entered the United States *be-*

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[3] The provisions of Section 19(c) and (d) of the Act of 1917 which embodied these provisions are set forth in the Appendix, *infra*, pp. 37–39.

fore June 27, 1950, were deportable under any law of the United States, and were not guilty of major offenses which would disqualify them from suspension under Section 19 (d) of the Act of 1917, as amended. In addition to the unconscionable hardship requirement, which is the same under each subdivision,[4] this subdivision required a showing of continuous residence in the United States for seven years immediately preceding application for suspension, and good moral character during that time.

Subdivision (2) covers aliens who entered the United States at any time *after* June 27, 1950, and whose deportability derives from an act committed or a status existing prior to or at the time of entry, which is not covered by subdivision (4). Under this provision, there must be continuous residence and good moral character for five years immediately preceding the date of the application.

Subdivision (3) has the same requirements as (2) but relates to post-entry grounds for deportation and excludes aliens specifically covered in (4) and (5).

Subdivision (4) deals with post-June 27, 1950, entrants deportable for unlawful entry or deportable for entry or pre-entry major misbehavior (*e. g.*, prostitution, subversion, and narcotic violations) who are not covered by subdivision (5), and who establish ten years' continuous residence and good moral character from the date of entry.

Finally, subdivision (5) covers two groups of aliens: (a) those aliens entering *after* June 27, 1950, who

[4] See note 1, *supra*, pp. 16–17.

overstay the period for which they were admitted, and (b) those, *regardless of the date of entry,* whose post-entry act makes them deportable for any one of 11 specified offenses (one of which is failure to report (Section 241(a)(5)). Both groups under (5) must establish ten years' continuous residence and good moral character from the date of the deportable act to qualify for suspension.[5]

Additionally, suspension ordered by the Attorney General under subdivisions (1)–(3) is final unless disapproved by resolution of either House of Congress (Section 244(b)), whereas under (4) and (5) a concurrent resolution *approving* the grant of suspension is necessary to give it finality (Section 244(c)).

Subdivision (5) obviously included the group which Congress considered the most serious post-entry offenders. This is shown, not only by the stringent re-

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[5] The Immigration and Naturalization Service has construed this language of subdivision (5) "as requiring that before an application for suspension may be submitted, at least 10 years must have elapsed after the grounds for deportation arose and that during the 10 years immediately preceding the application, the alien must prove continuous physical presence in the United States and good moral character." *Matter of M.* ———, 5 I. & N. Dec. 261, 268; *Matter of P.* ———, 5 I. & N. Dec. 651, 656. To read the language literally and require good moral character and residence only for the exact ten-year period after the date of the deportable act would virtually eliminate the possibility that a reformed criminal—deportable under Section 241(a)(4) (conviction of a crime involving moral turpitude)—could ever apply for suspension under Section 244(a)(5) since following his deportable act he would probably be confined in prison for over 180 days, thus precluding a showing of good moral character for that period under Section 101 (f) (7).

quirement of ten years' residence after the deportable act, but by the necessity for express approval of suspension by Congressional resolution. Hence, when Congress in 1952 decided that registration offenses by aliens were of a sufficiently grave character to come explicitly within the stringent provisions of subdivision (5), it could not have intended them to fall also within the more lenient provisions of subdivision (1).

2. Subdivision (5) is the only suspension provision having no time limitation as to entry. The terms of this subdivision (except for aliens overstaying the period for which they were admitted) apply both prospectively and retrospectively, whether the alien entered before or after 1950. In contrast, subdivision (1) applies only to persons entering before 1950, and subdivisions (2) to (4) only to those entering after 1950. This fact supports the view that (5) was intended to be the governing provision as to the offenses there specified. There was good reason why no time limitation was made in (5). Most of the specific post-entry offenses covered by subdivision (5) had previously been considered so serious that suspension of deportation was not permitted at all under former law. Hence, most of the offenses enumerated in subdivision (5) are excluded from subdivision (1) by virtue of the provision in (1) that its benefits should not extend to those who were not eligible for suspension under Section 19(d) of the 1917 Act, as amended.[6] For example, persons who had been

[6] The opinion of the court below demonstrates this in graphic form (R. 41–48, fn. 7).

members of the Communist Party after entry were ineligible for suspension of deportation under the prior law, no matter how brief their membership or how far in the past. Under (5), however, such persons who do show genuine reform for a period of ten years after the deportable act and meet the other requirements of the subdivision, are given an opportunity to apply for suspension. Suspension has in fact been granted in proper cases under (5) to persons who entered before 1950. See Report on the Administration of the Immigration and Nationality Act, February 28, 1955, Committee on the Judiciary, House of Representatives, pp. 32–58, particularly at pp. 48–58.

In other words, as to the categories in (5), the 1952 Act represented for the most part an amelioration from the absolute ineligibility under prior law, although setting conditions for suspension more stringent than those fixed for less serious grounds for deportation. Since subdivision (5) was, therefore, for the most part conferring the privilege of suspension on certain aliens for the first time, it was not made subject to the time limitations of the other sections.

The particular offense here involved occupies an anomalous position among the specific offenses enumerated in subdivision (5) for the reason that it was not one of the offenses for which suspension could not have been granted under former Section 19(d). It was not even a ground for deportation until the 1952 Act. But by 1952 Congress had obviously reached the conclusion that this type of offense was

a serious danger to security in that it prevented the tracing of aliens. The requirements for registration had been constantly strengthened. The provision for registration under pain of criminal sanctions had initially been imposed by the Alien Registration Act of 1940 (54 Stat. 671) and the provision for annual reporting, again with criminal penalties, by Section 24 of the Internal Security Act of 1950 (64 Stat. 987). In the 1952 Act, Congress still further strengthened the registration and reporting provisions by making willful violations grounds for deportation (Section 241(a)(5)). And in Section 244(a), dealing with suspension, it included this ground of deportation with those classified as the most serious. Similarly, the only other offenses enumerated in subdivision (5) of Section 244(a) which are not wholly excluded by the literal terms of subdivision (1) are convictions for war-time emergency and security laws made grounds for deportation under Section 241(a)(17).[7] These too are categories of offenses not particularly in the public mind when the classes of ineligibility for suspension were first established in 1940, but offenses very seriously regarded by 1952. The very fact that Congress put these types of offenses into the same classification as the group which theretofore had not been subject to provision for suspension at all, and which were not to be differentiated by the time of entry, shows that Congress must have intended subdivision (5) to be controlling.

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[7] To some extent, these offenses may be excluded from (1) by virtue of the fact that persons convicted of crimes involving moral turpitude were excluded under prior Section 19(d).

Indeed, to allow petitioner to apply under subdivision (1) would lead to the strange result that he would be entitled to the greater relief of suspension of deportation while not the lesser relief of voluntary departure. Section 244(e) authorizes the relief of voluntary departure to those aliens deportable under 241(a)(5) only if they are "*within* the provisions of paragraph (4) [or] (5)" of 244(a) (emphasis added), *i. e.*, having 10 years continuous residence and good moral character (*Matter of V.* ———, 6 I. & N. Dec. 723). It would seem that, if petitioner is not now entitled to voluntary departure, he is certainly not entitled to suspension of deportation. The provisions relating to voluntary departure indicate that Congress considered (4) and (5), with their more stringent provisions, exclusively applicable to the grounds for deportation enumerated therein.

3. By requiring ten years' continuous residence "immediately following" the deportable act before suspension could be obtained under subdivision (5), Congress plainly was requiring that aliens deportable for the grounds there enumerated show a substantial period of reform before being eligible for suspension. Registration violators, as we have noted, were considered among the group of serious offenders and specifically included under (5) with those whose deportation could not have been suspended under former law. To hold that pre-1950 violators may nonetheless apply under (1) could completely do away with the probationary requirement in their case. To illustrate, if petitioner (who entered in 1947) may apply under

(1), the result would be that, while having violated the reporting requirements in 1954, he nevertheless is able to meet the residence requirement of subdivision (1) in 1954, the very year of such violation, since he then would have resided here seven years "immediately preceding" his application. This would be wholly inconsistent with the view adopted in the 1952 Act and implicit in subdivision (5) that registration violations were serious offenses in a class with narcotics convictions and subversive activities.

Moreover, aliens entering after 1950 and thereafter failing to register or report could not apply for suspension under 244(a)(1) because of its cut-off date (December 24, 1957); they could apply only under 244(a)(5). As noted, the offense here involved, failure to report annually, was first established in 1950 and first made a ground for deportation in 1952. As pointed out by the court below (244 F. 2d at 184):

> It would * * * be highly anomalous for Congress, having expressed the more severe view it now takes of the offense of failure to register, to permit certain persons who violate the registration provisions of the new Act after its passage (e. g., as here, in 1953 and 1954) to receive more consideration than others who are guilty of precisely the same omission at precisely the same time, merely because the former entered the United States earlier than the latter. Such might be the result where both the entry and the offense occurred before the enactment of the new Act (or before the cut-off date two years earlier), but in the present situation, where the new Act gave notice of the more se-

vere consequences of a failure to comply and compliance was still not forthcoming, such a construction is not reasonable. Congress should not be thought to have created two categories of aliens, distinguishable only by their date of entry, whose improper behavior carries different consequences.

B. The legislative history shows that subdivision (5) was intended to be controlling as to the offenses enumerated therein

1. Petitioner (Br. 9, 12, 14) argues that Congress intended Section 244(a)(1) to be a "savings clause" applicable to all pre-1950 entrants and in substantial effect continuing prior law as to them for a period of five years until December 24, 1957.[8] He relies upon a suggestion to that effect in S. Rep. 1515, 81st Cong., 2d Sess., the study which preceded the Immigration Act of 1952. His argument, however, fails to take into consideration the history of the bills which became the 1952 Act.

As introduced in the 82d Congress, S. 2550[9] did embody the "savings clause" feature for which petitioner contends. Section 244(a)(1) applied to persons entering more than two years before the new enactment and had a cut-off date for applications by such aliens of five years after the enactment. All the other subdivisions of Section 244(a), including subdivision (5), were limited to persons entering the

[8] It cannot be characterized as a true "savings clause" since it provided a condition not present in the former law, the condition of exceptional and unusual hardship.

[9] Earlier Senate versions, S. 716, 82d Cong., 1st Sess., and S. 3455, 81st Cong., 2d Sess., were similar in this respect.

United States two years before the enactment of the statute and at any subsequent time. On the other hand, the House bill, H. R. 5678, had a cut-off date only as to subdivision (1) but no limitation of any kind in subdivisions (2) through (5). This difference between the two versions was not the subject of comment and not resolved until the report (H. Rep. 2096, 82d Cong., 2d Sess.) of the conference committee, which drafted the bill in its present form, with some sort of a time limitation as to entry in every subdivision except the part of subdivision (5) dealing with the eleven post-entry offenses specifically enumerated therein. To recapitulate, subdivision (1) applies to persons entering before 1950; subdivisions (2), (3), and (4) and a part of (5) not here involved apply to persons entering after 1950; but the part of (5) relating to the eleven enumerated offenses is applicable regardless of the time of entry. While no specific explanation for this change was offered in the conference report (H. Rep. 2096, 82d Cong., 2d Sess.) or in the debates, the reason for this exception as to (5) is, as we have suggested, fairly evident. As to the specific offenses involved, most of which had theretofore rendered the alien ineligible to suspension, the privilege of suspension was to be granted to persons who had entered before 1950. But by the same token, the removal of any limitation as to time of entry as to those offenses indicates a purpose to require all aliens in that category to meet the eligibility requirements of (5).

As to pre-1950 entrants, subdivision (1) relates to grounds of deportation, whether pre-entry or post-entry, which were regarded as of less serious character. It would, for example, cover such a pre-entry ground for deportation as arrival from contiguous territory on a non-signatory vessel without the required period of stay in such foreign contiguous territory (241(a)(10)), or post-entry failure to maintain non-immigrant status (241(a)(9)).[10] These are grounds covered, as to post-1950 entrants, by subdivisions (2) and (3) which require only a 5-year period of residence.[11] But as to offenses enumerated in subdivision (5), regarded as of the most serious character, it seems clear that, inasmuch as (5) applies both to pre-1950 and post-1950 entrants, the conditions of (5) apply to deportation for a ground specified therein regardless of the date of entry.

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[10] In a case arising in the District Court for Connecticut, *Cestaro* v. *Ryan*, decided June 27, 1957, presently on appeal to the Second Circuit, the court reasoned that if the five subdivisions under Section 244(a) are deemed to be mutually exclusive, subdivision (1) would have no effect since subdivisions (2) through (5) embrace all deportable acts under 241 (a). Therefore, the court reasoned, subdivision (1) was a savings clause for pre-1950 entrants eligible for suspension under the 1917 Act, as amended. This analysis is faulty for the reason that subdivision (1) does have vitality without giving it such broad coverage in that, in general, it provides (for a limited period) a means whereby pre-1950 entrants may obtain suspension where deportation is based on lesser grounds.

[11] But see *Matter of B.* ———, Interim Dec. No. 845, Jan. 28, 1957. As to illegal entry (Section 241(a)(2)), post-1950 entrants are covered by the more stringent provisions of (4) rather than (2). As to older entrants, however, Congress left in effect its prior more-lenient attitude.

C. The five subdivisions of section 244(a) should be construed to be mutually exclusive

1. The conclusion that (5) is the governing subdivision in this case is strengthened by the fact that the language and legislative history of Section 244(a) show that, as the court below developed, the five subdivisions were intended to be mutually exclusive.

This purpose appears from the face of the statute. Subdivision (1) applies only to pre-1950 entrants; subdivisions (2)–(4) only to post-1950 entrants. As to post-1950 entrants, subdivision (2) deals with minor entry or pre-entry charges not covered by (4), while (4) deals with the major entry or pre-entry charges; subdivision (3) deals with minor post-entry charges not covered by (5), whereas (5) deals with major post-entry charges. The only place where this mutual exclusivity is not immediately apparent on the face of the statute is in relation to the eleven specific offenses enumerated in (5), as applied to pre-1950 entrants, since, as we have stressed, no limitation is there made as to time of entry. However, (1) and (5) are for the most part mutually exclusive on the face of the statute since most of the grounds specified in (5) would have rendered the alien ineligible for suspension under Section 19 (d) of the 1917 Act and therefore ineligible under (1). The only overlapping between (1) and (5) under the literal language of the statute is as to pre-1950 entrants deportable for failure to register or for war security offenses (see *supra*, p. 25). Such overlapping, which probably represents a mere legislative oversight, does not affect the conclusion that the whole plan of the section indicates that the subdivi-

sions were to be mutually exclusive, and that the statute should reasonably be interpreted to give effect to that purpose.[12]

2. The legislative purpose to keep the subdivisions mutually exclusive is also evidenced by the history of the statute. As introduced, the Senate bill did not have the particular overlapping involved here since, as we have noted, it granted the benefits of subdivision (5) only to post-1950 entrants, but earlier versions did have other overlappings. In its analysis of an earlier version, S. 3455, introduced April 20, 1950, the Immigration and Naturalization Service pointed out that there was a possibility of an alien's being eligible under more than one of the proposed paragraphs. It noted that the less stringent subdivisions—*i. e.*, (2) and (3)—were broad enough to apply to aliens deportable as subversives whose rights to suspension were specifically covered by (4) and (5). It "strongly recommend[ed] that this apparent overlapping be eliminated * * *" and doubted "* * * whether the intention of setting up five *different* classes of such cases has been actually accomplished". See Analysis of S. 3455, a Bill to Revise the Laws

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[12] The mutual exclusivity apparent from the language of the statute disposes of petitioner's argument, based on the decision in *Sevitt* v. *Del Guercio*, 150 F. Supp. 56 (S. D. Cal.), presently pending on appeal to the Court of Appeals for the Ninth Circuit, that the use of the word "or" following each of the subdivisions indicated that Congress intended "to present a choice dependent only upon the alien meeting the standards as required in the particular paragraph he seeks to avail himself of" (150 F. Supp. at 59).

Relating to Immigration, Naturalization, and Nationality: and For Other Purposes, pp. 244–1, 4, 6, 7–8, 9. The subsequent versions of the bill and the measure as finally enacted contained changes to correct the overlapping pointed out by the Service.[13]

It seems evident that Congress was concerned with the possibility of overlap and sought to avoid it. The construction urged by petitioner, based on the fact that the literal language of these complex provisions falls slightly short of the apparent Congressional purpose, would thus defeat the obvious scheme of Section 244(a). As this Court has recently said, "Every statute must be interpreted in the light of reason and common understanding to reach the results intended by the legislature." *Rathbun* v. *United States,* 355 U. S. 107, 109. "[L]iteral interpretation of statutes at the expense of the reason of the law and producing absurd consequences or flagrant injustice has frequently been condemned." *Sorrells* v. *United States,* 287 U. S. 435, 446. If one reads subdivision (1) in the light of the overall Congressional purpose and with a view to giving a sensible meaning to the language employed, it becomes clear that to say subdivision (1) is applicable to an offense specifically covered by (5) would be contrary to "the results intended by the legislature."

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[13] The overlap pointed out by the Service was that, under S. 3455, subdivision (2) did not explicitly except the aliens falling under (4), and subdivision (3) did not explicitly except aliens covered by (4) and (5).

D. The rule that a specific provision governs a more general one is applicable here

As this Court has announced on numerous occasions: "General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment." *Ginsberg & Sons* v. *Popkin,* 285 U. S. 204, 208. See also *Fourco Glass Co.* v. *Transmirra Corp.,* 353 U. S. 222, 228–229; *MacEvoy* v. *United States,* 322 U. S. 102, 107; *Baltimore National Bank* v. *State Tax Commission of Maryland,* 297 U. S. 209, 215; *Kepner* v. *United States,* 195 U. S. 100, 125; *United States* v. *Chase,* 135 U. S. 255, 260. The rationale is that a contrary approach would violate the cardinal rule that "* * *.if possible effect shall be given to every clause and part of a statute." *Ginsberg & Sons* v. *Popkin, supra; Market Co.* v. *Hoffman,* 101 U. S. 112, 115; *Ex parte Public Bank,* 278 U. S. 101, 104. Cf. *McLeod* v. *Nagle,* 48 F. 2d 189, 191 (C. A. 9).

The offense for which petitioner was found deportable is expressly covered by Section 244(a)(5) regardless of the date of the alien's entry. It therefore governs petitioner's application, as against the more general language of subdivision (1) relating to an offense "under any law of the United States."[14] This would be true under settled rules of statutory

[14] This phrase did not appear in subdivision (1) when the bill was first introduced in the Senate (S. 3455). Rather, its inclusion was suggested by the Immigration Service "to prevent * * * [the use of the subdivision by] temporary visitors, or Government officials, etc., who may be in a legal temporary

construction without the other evidences of legislative purpose to which we have adverted.

In totality, the pertinent language, legislative history, and rules of construction compel the conclusion that, by specifically including registration violators under Section 244(a)(5) along with the most serious offenders, Congress meant to provide that all such violators—including those like petitioner who entered prior to June 27, 1950—must show continuous residence and good moral character for at least ten years after the deportable offense in order to be eligible for suspension relief.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the judgment below should be affirmed.

J. LEE RANKIN,
Solicitor General.
MALCOLM ANDERSON,
Assistant Attorney General.
BEATRICE ROSENBERG,
JEROME M. FEIT,
Attorneys.

MARCH 1958.

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status and who desire to adjust their immigration status to that of permanent residents under this section"—in other words, to make it clear that "* * * the alien must be deportable before he can apply for suspension of deportation." Analysis of S. 3455, pp. 244-2.

APPENDIX

1. Section 19 of the Immigration Act of 1917, 39 Stat. 889, as amended by 54 Stat. 671, provided in pertinent part:

> (b) Any alien of any of the classes specified in this subsection, in addition to aliens who are deportable under other provisions of law, shall, upon warrant of the Attorney General, be taken into custody and deported:
>
> (1) Any alien who, at any time within five years after entry, shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law.
>
> (2) Any alien who, at any time after entry, shall have on more than one occasion, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien or aliens to enter or to try to enter the United States in violation of law.
>
> (3) Any alien who, at any time after entry, shall have been convicted of possessing or carrying in violation of any law any weapon which shoots or is designed to shoot automatically or semi-automatically more than one shot without manual reloading, by a single function of the trigger, or a weapon commonly called a sawed-off shotgun.
>
> (4) Any alien who, at any time within five years after entry, shall have been convicted of violating the provisions of title I of the Alien Registration Act, 1940.

(5) Any alien who, at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act, 1940.

No alien who is deportable under the provisions of paragraph (3), (4), or (5) of this subsection shall be deported until the termination of his imprisonment or the entry of an order releasing him on probation or parole.

(c) In the case of any alien (other than one to whom subsection (d) is applicable) who is deportable under any law of the United States and who has proved good moral character for the preceding five years, the Attorney General may (1) permit such alien to depart the United States to any country of his choice at his own expense, in lieu of deportation, or (2) suspend deportation of such alien if not racially inadmissible or ineligible to naturalization in the United States if he finds that such deportation would result in serious economic detriment to a citizen or legally resident alien who is the spouse, parent, or minor child of such deportable alien. If the deportation of any alien is suspended under the provisions of this subsection for more than six months, all of the facts and pertinent provisions of law in the case shall be reported to the Congress within ten days after the beginning of its next regular session, with the reasons for such suspension. The Clerk of the House shall have such report printed as a public document. If during that session the two Houses pass a concurrent resolution stating in substance that the Congress does not favor the suspension of such deportation, the Attorney General shall thereupon

deport such alien in the manner provided by law. If during that session the two Houses do not pass such a resolution, the Attorney General shall cancel deportation proceedings upon the termination of such session, except that such proceedings shall not be canceled in the case of any alien who was not legally admitted for permanent residence at the time of his last entry into the United States, unless such alien pays to the Commissioner of Immigration and Naturalization a fee of $18 (which fee shall be deposited in the Treasury of the United States as miscellaneous receipts). Upon the cancellation of such proceedings in any case in which such fee has been paid, the Commissioner shall record the alien's admission for permanent residence as of the date of his last entry into the United States and the Secretary of State shall, if the alien was a quota immigrant at the time of entry and was not charged to the appropriate quota, reduce by one the immigration quota of the country of the alien's nationality as defined in section 12 of the Act of May 26, 1924 (U. S. C., title 8, sec. 212), for the fiscal year then current or next following.

(d) The provisions of subsection (c) shall not be applicable in the case of any alien who is deportable under (1) the Act of October 16, 1918 (40 Stat. 1008; U. S. C., title 8, sec. 137), entitled "An Act to exclude and expel from the United States aliens who are members of the anarchist and similar classes", as amended; (2) the Act of May 26, 1922, entitled "An Act to amend the Act entitled 'An Act to prohibit the importation and use of opium for other

than medicinal purposes', approved February 9, 1909, as amended" (42 Stat. 596; U. S. C., title 21, sec. 175); (3) the Act of February 18, 1931, entitled "An Act to provide for the deportation of aliens convicted and sentenced for violation of any law regulating traffic in narcotics", as amended (46 Stat. 1171; U. S. C., title 8, sec. 156a); (4) any of the provisions of so much of subsection (a) of this section as relates to criminals, prostitutes, procurers, or other immoral persons, the mentally and physically deficient, anarchists, and similar classes; or (5) subsection (b) of this section.

2. Section 241 (a) of the 1952 Act [8 U. S. C. 1251 (a)] provides in its entirety:

Sec. 241. (a) Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) at the time of entry was within one or more of the classes of aliens excludable by the law existing at the time of such entry;

(2) entered the United States without inspection or at any time or place other than as designated by theAttorney General or is in the United States in violation of this Act or in violation of any other law of the United States;

(3) hereafter, within five years after entry, becomes institutionalized at public expense because of mental disease, defect, or deficiency, unless the alien can show that such disease, defect, or deficiency did not exist prior to his admission to the United States;

(4) is convicted of a crime involving moral turpitude committed within five years after entry and either sentenced to confinement or

confined therefor in a prison or corrective institution, for a year or more, or who at any time after entry is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial;

(5) has failed to comply with the provisions of section 265 unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under section 266 (c) of this title, or under section 36 (c) of the Alien Registration Act, 1940, or has been convicted of violating or conspiracy to violate any provision of the Act entitled "An Act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes", approved June 8, 1938, as amended, or has been convicted under section 1546 of title 18 of the United States Code;

(6) is or at any time has been, after entry, a member of any of the following classes of aliens:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States; (ii) any other totalitarian party of the United States; (iii) the Communist Political Association; (iv) the Communist or any other

totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided,* That nothing in this paragraph, or in any other provision of this Act, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered

under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization,

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of

all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in paragraph (G);

(7) is engaged, or at any time after entry has engaged, or at any time after entry has had a purpose to engage, in any of the activities described in paragraph (27) or (29) of section 212 (a), unless the Attorney General is satisfied, in the case of any alien within category (C) of paragraph (29) of such section, that such alien did not have knowledge or reason to believe at the time such alien became a member of, affiliated with, or participated in the activities of the organization (and did not thereafter and prior to the date upon which such organization was registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950 have such knowledge or

reason to believe) that such organization was a Communist organization;

(8) in the opinion of the Attorney General, has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry;

(9) was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 248, or to comply with the conditions of any such status;

(10) entered the United States from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory transportation company under section 238 (a) and was without the required period of stay in such foreign contiguous territory or adjacent islands following such arrival (other than an alien who is a native-born citizen of any of the countries enumerated in section 101 (a) (27) (C) and an alien described in section 101 (a) (27) (B));

(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of any law or regulation relating to the illicit traffic in narcotic drugs, or who has been convicted of a violation of any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation or exportation of opium, coca leaves, heroin, marihuana, any salt deriva-

tive or preparation of opium or coca leaves or isonipecaine or any addiction-forming or addiction sustaining opiate;

(12) by reason of any conduct, behavior or activity at any time after entry became a member of any of the classes specified in paragraph (12) of section 212 (a); or is or at any time after entry has been the manager, or is or at any time after entry has been connected with the management, of a house of prostitution or any other immoral place;

(13) prior to, or at the time of any entry, or at any time within five years after any entry, shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(14) at any time after entry, shall have been convicted of possessing or carrying in violation of any law any weapon which shoots or is designed to shoot automatically or semiautomatically more than one shot without manual reloading, by a single function of the trigger, or a weapon commonly called a sawed-off shotgun;

(15) at any time within five years after entry, shall have been convicted of violating the provisions of title I of the Alien Registration Act, 1940;

(16) at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act, 1940; or

(17) the Attorney General finds to be an undesirable resident of the United States by reason of any of the following, to wit: has been

or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts or any amendment thereto, the judgment on such conviction having become final, namely: an Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918; sections 791, 792, 793, 794, 2388, and 3241, title 18, United States Code; an Act entitled "An Act to prohibit the manufacture, distribution, storage, use, and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes", approved October 6, 1917; an Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety", approved May 22, 1918; section 215 of this Act; an Act entitled "An Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918; sections 2151, 2153, 2154, 2155, and 2156 of title 18, United States Code; an Act entitled "An Act to authorize the President to increase temporarily the Military establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto; the Selective Training and Service Act of 1940; the Selective Service Act of 1948;

the Universal Military Training and Service Act; an Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917; section 871 of title 18, United States Code; an Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes", approved October 6, 1917, or any amendment thereof; the Trading With the Enemy Act; section 6 of the Penal Code of the United States; section 2384 of title 18, United States Code; has been convicted of any offense against section 13 of the Penal Code of the United States committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13 or of any offense committed during said period against the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, in aid of a belligerent in the European war; section 960 of title 18, United States Code; or

(18) has been convicted under section 278 of this Act or under section 4 of the Immigration Act of February 5, 1917.

U. S. GOVERNMENT PRINTING OFFICE: 1988